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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,859	01/06/2004	James J. Bartel	7663-000003/COD	4846

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EXAMINER
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VANAMAN, FRANK BENNETT

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/751,859

Applicant(s)

BARTEL, JAMES J.

Examiner

Frank Vanaman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 06 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 9-29 is/are pending in the application.
- 4a) Of the above claim(s) 13, 14, 20, 21 and 23-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-12, 15-19 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/5/04, 4/28/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **Election/Restrictions**

1. Applicant's election without traverse of Species IV in the reply filed on October 6, 2004 is acknowledged. Applicant has identified claims 9-29 as being readable on the elected species. The examiner notes that the subject matter recited in claims 13, 14, 20, 21, and 23-29 is not shown in the figures associated with the elected species. The specific elements which are not shown are: first and second plates attached to the transverse cross beams, further first and second cross beams connected to the transverse beams adjacent the first and second plates and the provision of a single segment drive shaft running perpendicular to horizontal. As such, these claims do not appear to be directed to the elected species and are hereby withdrawn from consideration. An office action on claims 9-12, 15-19 and 22 follows.

2. As an aside (and considered to be so because the claims in question are withdrawn from consideration), the examiner notes that the specification as filed fails to support the material recited in claims 13, 14, 20, 21, and 23-29, and further notes that no drawings in the instant application show these features, nor are these features supported by the parent application of which this instant application is a divisional.

*Definition of a Divisional Application:* A later application for a distinct or independent invention, carved out of a pending application and disclosing and claiming only subject matter disclosed in an earlier or parent application is known as a divisional application or "division." The divisional application should set forth the portion of the earlier disclosure that is germane to the invention as claimed in the divisional application.

### **Information Disclosure Statements**

3. Fully half the references cited on the later IDS (filed April 28, 2004) are duplicates of references cited in the earlier IDS (filed April 5, 2004). Inasmuch as these are redundant references, they have been indicated as having not been considered in the later IDS. Care should be taken in the review of Information Disclosure Statements filed in the Office in order to avoid redundant citations.

Certain ones of the foreign references cited by applicant on the IDS are not currently available to the examiner and have not been considered at this time, due to the temporary unavailability of the parent application.

The examiner notes that four foreign references have been filed with the application, however these references are not cited on the IDS, and do not appear to be directed to the instant application. Inasmuch as 37 CFR 1.98(a)(1) requires a list of all patents, publications, or other information submitted for consideration by the Office, the foreign documents received, but not listed on a PTO-1449 form or equivalent, have been placed in the application file but the information referred to therein has not been considered.

#### **Specification**

4. The disclosure is objected to because of the following informality: on page 11, line 17, "floor28a" should be -- floor 28a --.

Appropriate correction is required.

#### **Claim Objections**

5. Claims 12, 19, 23 and 26 are objected to because of the following informalities: In claim 12 at line 10; claim 19, line 10; and claim 26, line 10, it appears that "respectfully" should be --respectively--; in claim 23, line 7, it appears as though some text following "suspension" has been omitted. Appropriate correction is required.

#### **Claim Rejections - 35 USC § 103**

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 9, 10, 12, 15, 16, 17, 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mullican et al. (US 5,887,880, cited by applicant) in view of Vin (US 4,039,037, cited by applicant). Mullican et al. teach a powered vehicle having a frame assembly which extends from front to rear of the vehicle including an upward

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slope (figure 2), at least first and second pairs of rails which are connected to vehicle wheels (24), the wheels supported on a low profile suspension which includes plural trailing arms (51), a pair of first and second transverse members (50) which form part of a torsion box, a pair of air springs (46) interspersed between the torsion box (at 50) and the frame (proximate 48), which can urge the frame upward with respect to the suspension (compare figures 5, 6); the wheels (24) supported on an upwardly extending support (42). The reference to Mullican et al. fails to teach the wheels as being driven by an engine supported on the frame, including a transfer device with axially offset power input and output elements, the drive accomplished by a drive axle which is substantially horizontal. Vin teaches a vehicle drive including an engine (1) connected to a transmission (2) where an output (3) is connected to a geared drive transfer (6, 7) including a differential device, and having an input element, connected with a single segment drive shaft (5) between output (3) and the differential device and wherein an output element (8) which input and output elements are vertically axially offset, and wherein the wheel drive is accomplished by a substantially horizontal single segment drive shaft (10) extending to a driven wheel (e.g., 17) through a step up gearing arrangement (14, 15). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the drive scheme taught by Vin to the vehicle wheels of the vehicle of Mullican et al. for the purpose of providing a greater drive force, in that the drive scheme of Vin is adapted to drive plural sets of rear wheels.

8. Claims 11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mullican et al. in view of Vin and Schwenk (US 3,951,225, cited by applicant). The reference to Mullican et al. as modified by Vin is discussed above and fails to teach the provision of the differential being a half-shaft differential mounted to the vehicle frame, and having opposing swing axles extending therefrom. Schwenk teaches a vehicle drive scheme adaptable to vertically movable drive wheels (12) including a differential (34) taught to be directly mounted to the vehicle frame, and having a pair of swing axles (35, 36) extending therefrom for driving separate wheels. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a single drive axle system as taught by Schwenk, in place of the drive axle scheme taught by the modifying

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reference to Vin, using a differential and a pair of swing axles instead, for the purpose of reducing the number of moving parts between the front and rear of the vehicle.

**Conclusion**

9. Applicant is reminded that claims 13, 14, 20, 21, and 23-29 are withdrawn from consideration as not being directed to the elected embodiment.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Scerbo (US 3,666,036), Moll (US 4,355,696), Hilden (US 5,012,885), Lovell (US 5,040,826), and VanDenberg (US 5,868,418)

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 703-308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is 703-308-1113.

As of May 1, 2003, any response to this action should be mailed to:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450,

Or faxed to one of the following fax servers:

Regular Communications/Amendments: 703-872-9326  
After Final Amendments: 703-872-9327  
Customer Service Communications: 703-872-9325

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**F. VANAMAN**  
**Primary Examiner**  
**Art Unit 3618**



12/15/04